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The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS

AND INTERFERENCES

EX PARTE UWE KROHN, ROBERT S. STEWART, and NICHOLAS J. DAVIES

Appeal 2009-003926
Application 10/089,794
Technology Center 2100

Oral Hearing Held: October 8, 2009

Before HOWARD B. BLANKENSHIP, THU A. DANG, and CAROLYN D. THOMAS, *Administrative Patent Judges.*

APPEARANCES:

ON BEHALF OF THE APPELLANTS:

CHRIS COMUNTZIS, ESQUIRE
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The above-entitled matter came on for oral hearing on Thursday, October 8, 2009, at The U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Victoria L. Wilson, Notary Public.

THE USHER: Good afternoon. Calendar number 29. Mr. Comuntzis.

JUDGE BLANKENSHIP: Good afternoon. Could you pronounce your name for us.

MR. COMUNTZIS: Yes. It is Chris Comuntzis.

JUDGE BLANKENSHIP: Mr. Comuntzis. Well, you have 20 minutes and you can begin whenever you like.

MR. COMUNTZIS: Thank you.

Appellant's invention is directed to accessing sets of information stored in an information system using search criteria. One or more retrieved sets of information are designated by the user as relevant. A weighting is calculated for each corresponding search criterion, the weighting being indicative of the proportion of users who identified the retrieved set of information and found it to be relevant.

There are four independent claims under appeal and each of the independent claims has these features that I just described. For example, claim one has a weighting means and the weighting means being indicative of the proportion of users who, upon using the reported query term with said, at least, one information retrieval tool, indicated that said associated reference set of information was relevant.

I was reading directly from claim one. There are similar claim language limitations in independent claims 7, 13 and 15.

The Examiner has cited two pieces of prior art against the present appealed claims. The Examiner admits in the Final Office Action that Liddy, et al., does not disclose the limitation which I just discussed, but asserts that Bowman does, and the Examiner cites the page 3, lines 6-9 and 18-23, and page 14, line 17 to page 15, line 3, of Bowman for this teaching.

However, none of these passages even mentions calculating a weighting for every query term in accordance with its relevance, nor do the cited references even mention calculating a proportion of users who indicated that the retrieved information set was relevant, let alone a weighting based on such a calculated proportion. Based on this, it is Appellant's contention that the cited references do not teach or suggest the presently appealed claims.

If I may, I would just like to address the Examiner's Answer at certain portions. At page 13 of the Answer, the Examiner cites to Bowman's disclosure, stating that, quote, "The facility identifies as most relevant those items having the highest ranking value." And the Examiner says that that represents the teaching that users actually identify whether the reference set of information was relevant.

But the very passage cited by the Examiner says it is the facility that identifies the most relevant items. Obviously, Bowman's statement that the facility identifies is not the same as users actually identifying, which is required by the presently appealed claims.

Similarly, the Examiner's assertion, on pages 13-14 of the answer, that Liddy, in view of Bowman, does disclose calculating the proportion of users who indicated that the relevant information was relevant is believed to be in

error because the cited portion of Bowman merely keeps track of how often users have selected the item when the item has been identified in query results.

Nowhere does Bowman keep track of how many users -- I'm sorry – nowhere does Bowman keep track of how many users did not select the item, nor does Bowman account for users who selected the item but determined it not to be relevant. Bowman simply does not calculate a proportion of users as required by the appealed claims.

In fact, if Bowman did calculate a proportion, which Appellants assert it does not, if it did in the manner suggested by the Examiner, the proportion would always be 100 percent because it only adds up the users that access the information and that would be a trivial and meaningless result.

And for all of these reasons, Appellants believe that the present claims patentably distinguish over the cited art taken either singly or in combination.

I'll be glad to address any questions.

JUDGE BLANKENSHIP: We don't have any questions.

MR. COMUNTZIS: All right. Thank you.

JUDGE BLANKENSHIP: Thank you, sir. We are off the record.

(Whereupon, the proceedings were concluded on Thursday, October 8, 2009.)